

Before the
Federal Communications Commission
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of

WILLIAM F. CROWELL

Application to Renew License for Amateur
Radio Service Station W6WBJ

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WT Docket No. 08-20

FCC File No. 0002928684

To: Marlene H. Dortch, Secretary
Attn: The Commission

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**ENFORCEMENT BUREAU'S OPPOSITION TO CROWELL'S APPEAL
FROM ALJ'S FINAL RULING AND APPLICATION FOR REVIEW**

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SUMMARY

1. On February 12, 2008, the Commission's Wireless Telecommunications Bureau commenced a hearing proceeding to determine whether the application filed by William F. Crowell (Crowell) for renewal of his license for Amateur Radio Service Station W6WBJ should be granted (HDO). The HDO ordered that the hearing shall take place at a time and place to be specified in a subsequent order. On February 15, 2008, then-Presiding Judge Arthur I. Steinberg ordered that the hearing shall take place in Washington, D.C. Crowell did not appeal Judge Steinberg's *Order*. Instead, ten days *after* Judge Steinberg ordered that the hearing would take place in Washington, D.C., Crowell filed a written notice of appearance agreeing to appear on the date fixed for the hearing and present evidence on the issues specified in the HDO.

2. Crowell now refuses to appear at a hearing conducted in Washington, D.C. For this reason, the Enforcement Bureau (Bureau) moved to dismiss Crowell's application with prejudice and to terminate the hearing proceeding, arguing that Crowell's refusal to appear at the hearing has the same practical effect as if he had initially failed, pursuant to Section 1.221(c) of the Commission's rules (Rules), to file a written notice of appearance or otherwise signal his intent to participate in the hearing on his pending renewal application. The Presiding Judge agreed with the Bureau. The Presiding Judge also found that Crowell failed to offer any justification for why he was entitled to a field hearing outside of Washington, D.C. In *Order*, FCC 18M-05, therefore, the Presiding Judge dismissed Crowell's application with prejudice and terminated the hearing proceeding.

3. Crowell filed an appeal of the Presiding Judge's *Order* and an application for review. This joint appeal and application for review, however, fails to present any basis for reversing the Presiding Judge's *Order*. Crowell does not demonstrate either that he is entitled to

a field hearing or that his refusal to appear at a hearing in Washington does not warrant dismissal of his application and termination of the proceeding. Moreover, to the extent Crowell intended to seek Commission review of actions taken by delegated authority beyond *Order*, FCC 18M-05, he fails to identify the specific action taken against him for which he is now seeking Commission review, the delegated authority who took such action, and the subsection of Section 1.115 of the Rules pursuant to which he is seeking such relief. He also fails to meet the pleading requirements set forth in Section 1.115(b) of the Rules. Accordingly, Crowell's appeal and application for review should be denied in its entirety.

**ENFORCEMENT BUREAU'S OPPOSITION TO CROWELL'S APPEAL
FROM ALJ'S FINAL RULING AND APPLICATION FOR REVIEW**

1. On July 9, 2018, the Presiding Judge dismissed the renewal application filed by William F. Crowell (Crowell) with prejudice and terminated the above-captioned hearing proceeding on the grounds that Crowell refused to appear at a hearing conducted in Washington, D.C. and failed to demonstrate any basis for “why public funds should be expended and Commission resources burdened” to conduct a field hearing for his convenience.¹ Crowell appealed this *Order* on August 27, 2018 (Appeal).² The Chief, Enforcement Bureau (Bureau), through her attorneys, opposes Crowell’s Appeal for the reasons set forth below.

I. BACKGROUND

2. On February 12, 2008, the Commission’s Wireless Telecommunications Bureau commenced a hearing proceeding to determine whether the application filed by Crowell for renewal of his license for Amateur Radio Service Station W6WBJ should be granted (HDO).³ The HDO specified that, as the applicant, Crowell shall have the burden of proof with respect to all of the issues specified therein.⁴

3. The HDO also ordered that the hearing shall take place at a time and place to be specified in a subsequent order.⁵ On February 15, 2008, then-Presiding Judge Arthur I. Steinberg ordered that “all hearing proceedings [in the above-captioned proceeding] shall take

¹ *Order*, FCC 18M-05 (ALJ, rel. Jul. 9, 2018) at 5, para. 15.

² See Appeal From ALJ’s Final Ruling and Application for Review [47 CFR §§ 1.302 and 1.115] (filed Aug. 27, 2018) (Appeal).

³ See *In re William F. Crowell*, Hearing Designation Order, WT Docket No. 08-20, DA 08-361 (rel. Feb. 12, 2008) (HDO).

⁴ See *id.* at para. 14.

⁵ See *id.* at para. 10.

place in the Offices of the Commission, Washington, D.C.”⁶ Crowell did not appeal Judge Steinberg’s *Order*. Instead, ten days *after* Judge Steinberg ordered that the hearing would take place in Washington, D.C., Crowell filed a written notice of appearance, as directed by the HDO, stating: “I will indeed appear on the date fixed for hearing herein, and . . . I will present evidence on the issues specified in the Hearing Designation Order.”⁷

4. On March 30, 2017, Crowell filed a motion for a field hearing, asserting that he did not have the financial means to travel to Washington, D.C.⁸ The Bureau opposed Crowell’s motion, arguing that the Commission’s policy in scheduling local (field) hearings is founded upon public interest considerations which Crowell had failed to identify and that Crowell’s allegation that he had insufficient means to travel to Washington, D.C. was unsubstantiated.⁹

5. After considering the record, and the Bureau’s opposition, the Presiding Judge denied Crowell’s motion on the basis that the HDO had delegated to the Presiding Judge the authority to set the place of the hearing and that Judge Steinberg had already directed that the hearing take place in Washington, D.C.¹⁰ The Presiding Judge also recognized that the Bureau had made “a strong showing of the public interests served by holding the hearing in Washington, D.C.”¹¹ The Presiding Judge concluded that “there will be no field hearing and that all proceedings must be held in Washington, D.C.”¹²

⁶ *Order*, FCC 08M-08 (ALJ, rel. Feb. 15, 2008).

⁷ See Applicant’s Written Appearance [47 U.S.C. § 154(i) & 47 C.F.R., Part I, Subpart A, § 1.221 (c)] (mailed on Feb. 20, 2008) (Crowell’s Notice of Appearance). Pursuant to Section 1.7 of the Rules, Crowell’s Notice of Appearance was considered filed on February 25, 2008, the date it was received by the Commission. See 47 CFR § 1.7.

⁸ See Licensee’s Motion for a Field Hearing [Title 47 CFR, Chapter I, Subchapter A, Part I, Subpart B, Sec. 1.253] (filed Mar. 30, 2017).

⁹ See Enforcement Bureau’s Opposition to Crowell’s Motion For a Field Hearing (filed Apr. 3, 2017).

¹⁰ See *Order*, FCC 17M-19 (ALJ, rel. Apr. 7, 2017), at 2-3.

¹¹ *Id.* at n.7.

¹² *Id.* at 2.

6. Within days of the issuance of this *Order*, Crowell filed exceptions opposing the Presiding Judge's refusal to set a field hearing (Exceptions).¹³ The only argument Crowell made in challenging the Presiding Judge's refusal was that the Presiding Judge had no legal basis to require Crowell to demonstrate that he met the *in forma pauperis* standard.¹⁴ The Presiding Judge did not rule on Crowell's Exceptions because, at the time they were filed, the proceeding had already been suspended pending resolution of Crowell's appeal of the *Order* on his motion to disqualify the Presiding Judge.¹⁵

A. Crowell Confirms He Will Not Appear at the Hearing

7. On May 31, 2018, the Presiding Judge directed the parties to submit status reports addressing, in relevant part, readiness for hearing and proposed dates for the hearing to commence at the Commission in Washington, D.C.¹⁶ When counsel for the Bureau proposed to Crowell that the hearing commence on October 16, 2018, and requested that he confirm whether that worked for him, Crowell responded: "Not in Washington, D.C., it doesn't."¹⁷ In additional correspondence, Crowell informed counsel for the Bureau that "I won't be appearing at any Washington, D.C. hearings."¹⁸ He further stated: "I am going to decline to travel to Washington, D.C. . . . for the hearing"¹⁹ and "if you want to try to force a hearing in Washington,

¹³ See Licensee's Exceptions to ALJ's Memoranda, Opinions and Orders dated April 7, 2017 (FCC 17M-18 & 17M-19) (filed Apr. 10, 2017) at 3-4 (Exceptions).

¹⁴ See Exceptions at 3-4.

¹⁵ See *Order*, FCC 17M-18 (ALJ, rel. Apr. 7, 2017) and 47 CFR § 1.245(b)(4). For this same reason, the Bureau did not file an opposition to Crowell's Exceptions.

¹⁶ See *Status Order*, FCC 18M-03 (ALJ, rel. May 31, 2018).

¹⁷ Email from Crowell to Pamela Kane, dated June 4, 2018, 12:01PM EST. Crowell's emails to Bureau staff are attached as Exhibit B to Enforcement Bureau's Motion to Dismiss the Renewal Application for Failure to Prosecute and to Terminate the Proceeding (filed June 12, 2018) (EB's Motion to Dismiss).

¹⁸ Email from Crowell to Pamela Kane, dated June 4, 2018, 12:12PM EST, attached as Exhibit B to EB's Motion to Dismiss.

¹⁹ Email from Crowell to Pamela Kane, dated June 4, 2018, 10:00AM EST, attached as Exhibit B to EB's Motion to Dismiss.

which I will decline to attend, and run the risk of appeal and remand, then go right ahead.”²⁰

8. On June 7, 2018, Crowell filed a status report in which he confirmed to the Presiding Judge that he will not appear at the hearing.²¹ Specifically, Crowell stated: “I decline to appear at a hearing in Washington, D.C.,”²² arguing, without any legal support or citation, that the Commission is required to give him a field hearing²³ and that Washington, D.C. is an “illegal and improper” venue.²⁴ He further confirmed: “[I]f you want to proceed to a hearing in Washington, D.C. in my absence (. . . I will not be appearing there).”²⁵

B. The Bureau Moved to Dismiss Crowell’s Application with Prejudice and Terminate the Hearing Proceeding

9. Based on Crowell’s unequivocal and willful statements that he would not appear at the hearing in Washington, D.C., the Bureau filed a motion to dismiss Crowell’s renewal application with prejudice and to terminate the hearing proceeding (Motion to Dismiss).²⁶ The Bureau argued that Crowell’s refusal to appear at the hearing had the same practical effect as if he had initially failed, pursuant to Section 1.221(c) of the Commissions’ Rules (Rules), to file a written notice of appearance or otherwise signal his intent to participate in the hearing on his pending renewal application – *i.e.*, he had waived his right to prosecute that application.²⁷ The Bureau further argued that the consequences of Crowell’s decision should likewise be no

²⁰ *Id.*

²¹ See Applicant’s Status Report (filed June 7, 2018) at 1, 17.

²² *Id.* at 1.

²³ See *id.*

²⁴ *Id.* at 17, para. 12.

²⁵ *Id.* at 14.

²⁶ See Enforcement Bureau’s Motion to Dismiss the Renewal Application for Failure to Prosecute and to Terminate the Proceeding (filed June 12, 2018) (EB’s Motion to Dismiss).

²⁷ See EB’s Motion to Dismiss at 5, para. 9 (citing *Action, S.A. v. Marc Rich & Co., Inc.*, 951 F.2d 504, 507-08 (2d Cir. 2008) which affirmed that defendant who had initially entered an appearance, but then admitted “he would not appear, either for discovery or for trial” had defaulted on his right to prosecute his case).

different – his application should be dismissed with prejudice and the hearing terminated.²⁸

10. Crowell's Opposition did nothing to dispute the Bureau's arguments.²⁹ Crowell did not state, for example, that he *would* appear at the hearing in Washington, D.C. If anything, he confirmed that he *would not* appear, asserting "I never agreed to appear in Washington, D.C."³⁰ Moreover, Crowell chose not to address the Bureau's contention that his refusal to appear at the Washington, D.C. hearing should result in the dismissal of his pending application with prejudice and termination of the hearing proceeding. As a result, the Bureau argued its Motion to Dismiss was in all aspects unopposed and should be granted.³¹

11. The Presiding Judge agreed with the Bureau.³² In addition, he acknowledged that "[t]here is no right to a local hearing under Section 1.253" of the Rules.³³ Rather, "the location of hearings is based on 'public interest considerations.'"³⁴ The Presiding Judge concluded that Crowell had "offered no justification for a field hearing beyond his own convenience and conclusory assertions of financial hardship."³⁵ For these reasons, the Presiding Judge dismissed Crowell's application with prejudice and terminated the hearing proceeding.³⁶ It is this *Order* from which Crowell now appeals.

II. OPPOSITION TO APPEAL OF *ORDER*, FCC 18M-05

12. In his Appeal, Crowell asserts that the Presiding Judge's *Order* dismissing his

²⁸ See EB's Motion to Dismiss at 5, para. 9.

²⁹ See, e.g., Applicant's Opposition to Enforcement Bureau's Motion to Dismiss Renewal Application (filed June 22, 2018) (Opposition) at 3-21, paras. 1-18.

³⁰ Opposition at 3.

³¹ See Enforcement Bureau's Reply in Support of Its Motion to Dismiss the Renewal Application for Failure to Prosecute and to Terminate the Proceeding (filed June 29, 2018).

³² See *Order*, FCC 18M-05, at 3, paras. 8-9.

³³ *Id.* at 4, para. 14 (quoting *In re United Broadcasting*, 93 FCC 2d 482, 488 (1983)).

³⁴ *Id.*

³⁵ *Order*, FCC 18M-05, at 5, para. 15.

³⁶ See *id.* at 5, paras. 19 and 20.

renewal application with prejudice and terminating the hearing proceeding violates his administrative due process rights.³⁷ Specifically, Crowell appears to suggest that the Presiding Judge erred in not granting Crowell's earlier request for a field hearing and in then applying Section 1.221(c) of the Rules – and the consequences that result from a failure to meet the requirements of that rule – when he refused to appear at a hearing in Washington, D.C.³⁸ As set forth below, Crowell fails to present any support for either of these assertions.

A. Crowell Fails to Demonstrate That He is Entitled to a Field Hearing

13. Section 1.253(a) of the Rules provides that “[t]he Commission will specify the day on which and the place at which any hearing is to commence.”³⁹ Although it contemplates the possibility that a hearing may take place at a field location,⁴⁰ as the Presiding Judge recognized in *Order*, FCC 18M-05, “[t]here is no right to a local hearing under Section 1.253” of the Rules.⁴¹ Rather, the Commission has held that the location of hearings is founded upon “the overriding public interest consideration to conduct fair and impartial evidentiary hearings and to compile full, complete and accurate records upon which reasoned determinations can be made.”⁴²

14. As the record reflects, on February 15, 2008, then-Presiding Judge Steinberg ordered that “all hearing proceedings [in the above-captioned proceeding] shall take place in the Offices of the Commission, Washington, D.C.”⁴³ ***Crowell did not appeal Judge Steinberg's***

³⁷ See, e.g., Appeal at 1.

³⁸ See, e.g., *id.* at 6-11.

³⁹ 47 CFR § 1.253(a).

⁴⁰ 47 CFR § 1.253(d).

⁴¹ *Order*, FCC 18M-05, at 4, para. 14 (quoting *In re United Broadcasting*, 93 FCC 2d 482, 488 (1983)).

⁴² *Cathryn C. Murphy*, 23 FCC 2d 204, 205, para. 3 (1970). See also *In re United Broadcasting*, 93 FCC 2d at 488 (noting that the Commission's policy in scheduling field hearings is founded upon public interest considerations) (citations omitted).

⁴³ *Order*, FCC 08M-08 (ALJ, rel. Feb. 15, 2008).

Order. Instead, he thereafter filed a Notice of Appearance, representing that he would appear at the hearing and present evidence on the issues specified in the HDO.⁴⁴ In his March 30, 2017, motion for a field hearing, the *only* basis that Crowell provided in support of his request was that he did not have the financial means to travel to Washington, D.C.⁴⁵ As the Presiding Judge recognized in *Order*, FCC 18M-05, Crowell did not point “to any public interest factors weighing in favor of a field hearing.”⁴⁶

15. In his Appeal, Crowell still fails to demonstrate “why a complete record and a fair and impartial hearing cannot be obtained in Washington, D.C.”⁴⁷ Instead, he relies almost exclusively on what he mischaracterizes as “the five leading amateur service cases on the subject of venue”⁴⁸ to support his assertion that “the Commission has no choice but to hold a field hearing”⁴⁹ in this case. None of these cases address the question of venue. Indeed, it is not even clear from the cited decisions in *Hildebrand*,⁵⁰ *Armstrong*,⁵¹ or *Gilbeau*⁵² where the evidentiary hearing in these cases was held. The cited decisions in *Kerr* and *Ballinger* state only that a

⁴⁴ See Applicant’s Written Appearance [47 U.S.C. § 154(i) & 47 C.F.R., Part I, Subpart A, § 1.221 (c)] (mailed on Feb. 20, 2008)

⁴⁵ See Licensee’s Motion for a Field Hearing [Title 47 CFR, Chapter I, Subchapter A, Part I, Subpart B, Sec. 1.253] (filed Mar. 30, 2017), at 2.

⁴⁶ *Order*, FCC 18M-05, at 5, para. 15.

⁴⁷ *Id.*

⁴⁸ Appeal at 7.

⁴⁹ *Id.*

⁵⁰ See *David Hildebrand*, PR Docket No. 81-302, Decision, 92 FCC 2d 1241 (Rev. Bd., rel. Jan. 26, 1983). An earlier decision suggests that the hearing was held in Los Angeles, CA, but does not discuss the question of venue. See *David Hildebrand*, PR Docket Nos. 81-302, 303, Initial Decision, 92 FCC 2d 1245 (ALJ, rel. Oct. 4, 1982).

⁵¹ See *Henry C. Armstrong, III*, PR Docket Nos. 81-826, 827, Initial Decision, 92 FCC 2d 491 (ALJ, rel. Aug. 23, 1982). The Commission’s Review Board Decision similarly fails to identify where the hearing took place. See *Henry C. Armstrong, III*, PR Docket No. 81-826, Decision, 92 FCC 2d 485 (Rev. Bd., rel. Mar. 11, 1983).

⁵² See *Donald E. Gilbeau*, PR Docket No. 81-172, Decision, 91 FCC 2d 98 (Aug. 17, 1982). An earlier decision states only that the hearing was held in San Francisco, CA. See *Donald E. Gilbeau*, PR Docket Nos. 81-172, 173, Initial Decision, 91 FCC 2d 103 (ALJ, rel. Mar. 31, 1982). The *Gilbeau* case offers no analysis on the question of appropriate venue.

hearing was held, or scheduled to be held, in San Francisco and Los Angeles, respectively.⁵³ At best, these cases represent nothing more than a sampling of proceedings involving amateur radio licensees where the hearing was not held in Washington, D.C. They offer absolutely no support for Crowell's contention that he is entitled to a field hearing or that the Presiding Judge erred in denying his request for one.

16. In addition, in his Appeal, Crowell appears to suggest that the Presiding Judge erred by imposing the "rebuttable presumption of licensee solvency" – *i.e.*, the "*in forma pauperis*" standard – against him in denying his field hearing request.⁵⁴ Although Crowell put the question of his financial solvency at issue by relying on it as the sole basis for his motion for a field hearing, the Presiding Judge clarified in *Order*, FCC 18M-05, that he **did not** apply the *in forma pauperis* standard in considering Crowell's request for a field hearing.⁵⁵ Indeed, the Presiding Judge acknowledged that he agreed with Crowell that the *in forma pauperis* standard does not extend to him since he is a non-remunerative amateur radio licensee.⁵⁶ Thus, here again, Crowell fails to demonstrate that he is entitled to a field hearing or that the Presiding Judge erred in denying his request for one.

B. Crowell Fails to Demonstrate That the Consequences of Section 1.221(c) of the Rules Should Not Apply to His Case

17. In *Order*, FCC 18M-05, the Presiding Judge concluded that Crowell's refusal to appear at the hearing in Washington, D.C. had the same practical effect as if he had initially failed, pursuant to Section 1.221(c) of the Rules, to file a written notice of appearance or

⁵³ See Gary W. Kerr, PR Docket No. 81-06, Initial Decision, 91 FCC 2d 110 (ALJ, rel. Apr. 5, 1982) and Randy L. Ballinger, PR Docket No. 84-291, Summary Decision, FCC 84D-28 (ALJ, rel. May 10, 1984).

⁵⁴ See Appeal at 6-7.

⁵⁵ See *Order*, FCC 18M-05, at 5, paras. 16-18.

⁵⁶ See *id.* at 5, para. 16.

otherwise signal his intent to participate in the hearing on his pending renewal application – *i.e.*, he has waived his right to prosecute that application.⁵⁷ In so finding, the Presiding Judge relied, in part, on Commission precedent dismissing with prejudice, pursuant to Section 1.221(c) of the Rules, a pending application for a Class D station license in the Citizens Radio Service after the applicant refused to participate in a hearing before the Commission in Washington, D.C.⁵⁸ The Presiding Judge saw “no reason why the same result should not obtain here.”⁵⁹

18. In his Appeal, Crowell completely ignores the Presiding Judge’s legal analysis and the Commission’s precedent. Instead, he appears to suggest – without relying on any legal support or citation – that the Presiding Judge erred in dismissing his application with prejudice for failure to prosecute under Section 1.221(c) of the Rules because that Section, Crowell argues, only requires him to agree to appear on the date fixed for a hearing.⁶⁰ It does not require that he commit to appearing at the designated place of hearing.⁶¹ This simply misses the point.

19. In *Order*, FCC 18M-05, the Presiding Judge relied not on the specific language in Section 1.221(c) of the Rules but on its purpose. As he recognized, Section 1.221(c) serves to provide the Bureau and any other parties, the Office of Administrative Law Judges, and the Commission with timely notice – within 20 days of the mailing of the HDO – that the applicant commits to appearing at the hearing and presenting evidence on the designated issues.⁶² If the applicant refuses to make such a commitment, there is no need for a hearing.⁶³ As the Bureau

⁵⁷ See *id.* at 3, para. 8-9.

⁵⁸ See *id.* at 3-4, paras. 9-10 (citing *In re Edward B. Christopher*, 25 FCC 2d 699 (1970)).

⁵⁹ *Id.* at 4, para. 10.

⁶⁰ See *Appeal* at 7-8.

⁶¹ See *id.*

⁶² See *Order*, FCC 18M-05, at 3, para. 8.

⁶³ See *id.*

noted in its Motion to Dismiss, there is no reason to expend valuable time and resources adjudicating the merits of an application that the applicant has waived its right to prosecute.⁶⁴

20. Moreover, even if Crowell were correct in his unsubstantiated assertion that Section 1.221(c) of the Rules does not require that he agree to appear at the *place of hearing* and “leaves open [his] right to challenge the venue originally designated,”⁶⁵ Crowell offers no support for his apparent position that he did not need to challenge that venue at the time he filed his Notice of Appearance. As the record reflects, Crowell was aware at the time he filed his Notice of Appearance that then-Presiding Judge Steinberg had ordered that all hearing proceedings in this action shall take place Washington, D.C.⁶⁶ Even though Crowell apparently never intended to appear at a hearing in Washington, D.C., “he did not explicitly convey his refusal to appear” in Washington, D.C. when he filed his Notice of Appearance.⁶⁷ Instead, he admits he purposefully worded his Notice of Appearance so as to avoid specifically agreeing to appear in Washington, D.C.⁶⁸ and then waited more than nine years to request a field hearing.⁶⁹ Such gamesmanship should not be sanctioned.

III. OPPOSITION TO CROWELL’S APPLICATION FOR REVIEW

21. Crowell has titled his pleading as both an appeal from the Presiding Judge’s *Order* dismissing Crowell’s renewal application and terminating the hearing proceeding and an

⁶⁴ See EB’s Motion to Dismiss at 4, para. 7.

⁶⁵ Appeal at 8.

⁶⁶ See *Order*, FCC 08M-08 (ALJ, rel. Feb. 15, 2008).

⁶⁷ *Order*, FCC 18M-05, at 4, para. 11. Notably, the Presiding Judge concluded this demonstrated Crowell’s bad faith. See *id.*

⁶⁸ See Appeal at 8.

⁶⁹ Although Crowell asserts that he “objected to venue in Washington, D.C. at every opportunity” (Appeal at 8) and that he has “*always* argued that [he is] entitled to a field hearing” (*id.*), he fails to cite to a single instance in the record in which he made these objections and/or requested such relief before his March 2017 motion for a field hearing.

application for review. It is not clear from the pleading, however, the “actions” for which Crowell seeks Commission review pursuant to Section 1.115 of the Rules.⁷⁰ If Crowell meant to limit his application for review to *Order*, FCC 18M-05, then the Commission should disregard the myriad of topics raised in Crowell’s pleading that are plainly irrelevant to anything addressed in that *Order*.⁷¹ For the reasons the Bureau articulated above, Crowell’s application for review of *Order*, FCC 18M-05, should be denied.

22. If, on the other hand, Crowell’s inclusion of those topics was supposed to indicate his intent to seek review of actions other than *Order*, FCC 18M-05, his application for review is fatally flawed. Crowell fails, for example, to identify the specific action taken against him for which he is now seeking Commission review, the delegated authority who took such action, and the subsection of Section 1.115 of the Rules pursuant to which he is seeking such relief. In addition, he fails to specify with particularity, as Section 1.115(b) of the Rules requires, the basis for why any such action taken by delegated authority warrants Commission consideration.⁷² Instead, in the summary paragraph to his pleading, Crowell simply asserts as a blanket statement that each of the five (5) factors set forth in Section 1.115(b)(2) of the Rules warrants “Commission consideration of the questions presented” in his pleading.⁷³ This does not come

⁷⁰ See 47 CFR § 1.115(a) (“Any person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission.”).

⁷¹ See, e.g., Appeal at 4-6 (alleged vendetta by former Enforcement Bureau employee); *id.* at 11-19, 22 (Crowell’s free-speech rights); *id.* at 19 (indecentcy in the amateur radio service); *id.* at 19-20 (the Commission’s character policy); *id.* at 20-21 (the prohibition of the transmission of music in the amateur radio service); *id.* at 21-22 (the Presiding Judge’s alleged refusal to allow Crowell to file documents by mail); *id.* at 23 (the time for which this proceeding has been pending); and *id.* at 24 (the Presiding Judge’s purported bias against Crowell). Notably, to the extent that Crowell seeks to challenge any action taken by the Presiding Judge on the basis of judicial bias, Crowell has already lost on this issue. See, e.g., *In re William F. Crowell*, WT Docket No. 08-20, *Memorandum Opinion and Order*, FCC 18-52 (Apr. 26, 2018). Crowell is not entitled to another bite of the proverbial apple on these allegations.

⁷² See 47 CFR § 1.115(b).

⁷³ Appeal at 3.

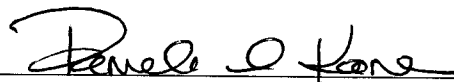
close to meeting the "particularity" standard required by Section 1.115(b) of the Rules. For these reasons, to the extent that Crowell's application for review is directed at actions other than *Order*, FCC 18M-05, it should also be denied.

IV. CONCLUSION

23. For the reasons set forth above, the Bureau respectfully requests that the Commission deny (i) Crowell's appeal of the Presiding Judge's *Order*, FCC 18M-05, dismissing his renewal application for Amateur Radio Service Station W6WBJ with prejudice for failure to prosecute and terminating the hearing proceeding and (ii) Crowell's application for review.⁷⁴

Respectfully submitted,

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September 5, 2018

⁷⁴ The only relief that Crowell appears to request is that the Commission "order a summary renewal of [his] Advanced class operator's license and station license for amateur radio service station W6WBJ." Appeal at 24. Such a result, however, would be inconsistent with the procedural status of the matter. Since *Order*, FCC 18M-05, dismissed the renewal application and terminated the hearing proceeding without resolving the issues designated for hearing, reversing the *Order* would not result in the grant of application, it would merely oblige the parties to resume the hearing process.

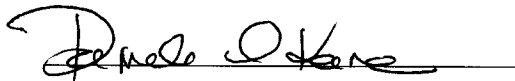
CERTIFICATE OF SERVICE

Pamela S. Kane certifies that she has on this 5th day of September, 2018, sent copies of the foregoing "ENFORCEMENT BUREAU'S OPPOSITION TO CROWELL'S APPEAL FROM ALJ'S FINAL RULING AND APPLICATION FOR REVIEW" via email to:

The Honorable Richard L. Sippel
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